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**DEC 22 2009**

**OFFICE OF PETITIONS**

In re Application of  
Dalbir SETHI et al.  
Application No. 10/565,564  
Filed: August 18, 2006  
Attorney Docket No. 60323-USA

**DECISION ON PETITION**

This is a decision on the petition, filed December 11, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the final Office action mailed February 13, 2008, which set a three (3) month shortened statutory period for reply. A three (3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application was abandoned on August 14, 2008. A Notice of Abandonment was mailed on September 03, 2008.

Petitioner asserts that the purpose for filing the extension of times was to maintain copendency with a continuation application. The Office records, indicates that a three (3) month extension of times was submitted.

If petitioner desires to seek withdrawal of the holding of abandonment, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an “unintentionally” abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was “unavoidable.” This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An “unintentional” petition under 37 CFR 1.137(b) must be accompanied by the \$1,620.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office  
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401 Dulany Street  
Alexandria, VA 22314

By facsimile: (571) 273-8300  
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to Michelle R Eason at 571-272-4231.



The signature is handwritten in black ink, appearing to read "Thurman K. Page". The "T" is capitalized and has a large loop. The "K" is smaller and positioned below the "T". The "P" is capitalized and has a large loop. The "g" is lowercase and has a long tail extending to the right.

Thurman K. Page  
Petitions Examiner  
Office of Petitions